

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

TODD MCCAIN, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

MARY MAHONEY’S, INC. d/b/a MARY
MAHONEY’S OLD FRENCH HOUSE,
ANTHONY C. CVITANOVICH, QUALITY
POULTRY & SEAFOOD, INC., JAMES W.
GUNKEL, TODD A. ROSETTI, and DOE
DEFENDANTS 1–10,

Defendants.

Case No.: 1:24-cv-241-LG-BWR

**RULE 59(e) MOTION TO ALTER OR
AMEND JUNE 10TH JUDGMENT
AND RULE 15(a) MOTION FOR
LEAVE TO FILE PROPOSED
SECOND AMENDED COMPLAINT
AND RICO CASE STATEMENT**

Todd McCain (hereinafter “Plaintiff”), by and through undersigned counsel, brings this motion pursuant to Federal Rule of Civil Procedure 59(e) to alter or amend the Judgment entered by this Court on June 10, 2025, dismissing Plaintiff’s First Amended Complaint without prejudice for lack of subject matter jurisdiction (“June 10th Judgment”) (R. Doc. 72).

Plaintiff also invokes Federal Rule of Civil Procedure 15(a)(2) to seek leave to file the attached proposed Second Amended Complaint and RICO Case Statement, relying on factual information that was not available at the time the First Amended Complaint and RICO Case Statement were filed. The proposed Second Amended Complaint and RICO Case Statement address and ameliorate the findings underlying the Court’s June 10th Judgment.

For the reasons stated in Plaintiff’s Memorandum in Support, filed contemporaneously herewith, and as supported by the exhibits attached hereto, Plaintiff requests this Court grant the Rule 59(e) motion, set aside or vacate its June 10th Judgment, and pursuant to Rule 15(a)(2), grant

Plaintiff leave to file the attached proposed Second Amended Complaint and RICO Case Statement.

Exhibits and other attachments hereto include:

- Exhibit 1: [Proposed] Second Amended Complaint
- Exhibit 1.A: Cvitanovich Sentencing Tr., Case No. 24-cr-00046, Dkt. No. 24 (Dec. 3, 2024)
- Exhibit 1.B: Cvitanovich Plea Tr., Case No. 24-cr-00046, Dkt. No. 16 (Aug. 8, 2024)
- Exhibit 1.C: U.S. Attorney, S.D. Miss., Press Release (May 30, 2024)
- Exhibit 1.D: U.S. Attorney, S.D. Miss., Press Release (Aug. 27, 2024)
- Exhibit 1.E: Rosetti Sentencing Tr., Case No. 24-cr-00090, Dkt. No. 19 (Dec. 12, 2024)
- Exhibit 1.F: Mary Mahoney's Criminal Info. (April 26, 2024)
- Exhibit 1.G: Mary Mahoney's Plea Agreement (May 30, 2024)
- Exhibit 1.H: Mary Mahoney's Consent Agreement
- Exhibit 1.I: Cvitanovich Criminal Info. (April 26, 2024)
- Exhibit 1.J: Cvitanovich Plea Agreement (May 30, 2024)
- Exhibit 1.K: QPS Criminal Info. (July 31, 2024)
- Exhibit 1.L: QPS Plea Agreement (Aug. 27, 2024)
- Exhibit 1.M: Gunkel Criminal Info. (July 31, 2024)
- Exhibit 1.N: Gunkel Plea Agreement (Aug. 27, 2024)
- Exhibit 1.O: Rosetti Criminal Info. (July 31, 2024)
- Exhibit 1.P: Rosetti Plea Agreement (Aug. 27, 2024)
- Exhibit 2: [Proposed] Second Amended RICO Case Statement

Dated: July 2, 2025

Respectfully submitted,

/s/ Gerald M. Abdalla, Jr.

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Counsel for Plaintiff and the putative class

CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2025, the foregoing document was filed on the Court's CM/ECF system which sent notification of such filing to all counsel of record.

/s/ Gerald M. Abdalla, Jr.
Gerald M. Abdalla, Jr.